

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 11761 of 1989
Date of decision: 12.9.2011

M/s Kailash Cotton Ginning FactoryPetitioner

vs.

Assessing Authority, BathindaRespondent

**CORAM: - HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE JASWANT SINGH**

Present: - None for the petitioner

Mr. A.P.S. Maan, Addl. AG. Punjab for respondent

HEMANT GUPTA, J

The petitioner is a dealer under the Punjab General Sales Tax Act, 1948 and also under Central Sales Tax Act, 1956. The petitioner sold cotton seed oil which is claimed by the petitioner as edible oil fit for human consumption and on which sales tax @ 1% is leviable in terms of notification dated 11.1.1979. Such claim of the petitioner was not accepted by the Assessing Authority, Bathinda in its order dated 25.1.1990. It was found that the Central Sales Tax on inter state sales of cotton seed oil other than edible oil fit for human consumption is 4% against 'C' forms whereas the petitioner has deposited only 1%. The assessment was framed accordingly.

The issue raised in the present petition was also raised in CWP No. 6919 of 1987. The said writ petition was allowed on 18.7.1991 by the learned Single Bench of this Court. But Letter Patent Appeal against the said judgment was accepted by the Division Bench of this Court vide the judgment

reported as (1998) 118 PLR 103 State of Punjab and ors vs. Milkhi Ram Oil and Dall Mills decided on 21.8.1997. It has been held that the cotton seed oil is not edible oil in the hands of dealer. Thus, the issue whether the cotton seed oil is not edible oil stands concluded in the case of Milkhi Ram Oil (supra).

In view of the said decision, present petition is dismissed for the reasons recorded in the case of Milkhi Ram Oil (supra).

(HEMANT GUPTA)
JUDGE

12.9.2011
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(JASWANT SINGH)
JUDGE